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NIGERIAN MARITIME LABOUR ACT

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NIGERIAN MARITIME LABOUR ACT

An Act to repeal the Nigerian Dock Labour Act No. 37 of 1999 and enact the Nigerian Labour Act, 2003.

[2003 No. 10.]

[25th June, 2003]

[Commencement.]

PART I

Establishment of Joint Maritime Labour Industrial Council and its Functions

1. Establishment of Joint Maritime Labour Industrial Council, etc.

(1) There is established a body to be known as the Joint Maritime Labour Industrial Council (in this Act referred to as "the Council") which-

(a) shall be a body corporate with perpetual succession and a common seal; and

(b) may sue or be sued in its corporate name.

2. Functions of the Council

The Council shall-

(a) register, keep and maintain the register of each dock worker, seafarer, stevedoring company and seafarer employer, jetty and terminal operator;

(b) regulate the conditions of service or dock workers and seafarers

(c) ensure direct payment of wages to each dock worker and seafarer by the stevedoring companies and seafarer employers;

- (d) set out guidelines which will ensure that dock workers and seafaring is rotated evenly among dock workers and seafarers in the pool
- (e) ensure that dock worker and seafarer employers comply with the existing regulations and standards in relation to crewing, wages, safety, welfare and training of dock workers and seafarers at ports and on board vessels
- (f) ensure that Nigerian National Carriers employ one hundred percent of their crew, and at least seventy-five percent of their shipboard officers including captain and the chief officer and where possible chief engineers, from its pool of seafarers;
- (g) approve conditions of service for dock workers and seafarers as recommended by stevedoring companies and seafarer employers, jetty and terminal operators and Maritime Workers Union of Nigeria (MWUN) following guidelines set up by the Council;
- (h) ensure that the activities of dock workers and seafarers are not inimical to peace, security and industrial harmony and smooth operations at the Nation's seaports and off board vessel;
- (i) serve as a medium for resolving disputes and complaints among the interest groups in the maritime industry; and
- (j) conduct a census of dock workers and seafarers in the pool every three years.

3. Establishment and membership of the Governing Board

(1) There is established for the management of the Council a Governing Board (in this Act referred to as "the Board") which shall consist of the following members-

- (a) an Executive Chairman who shall be the Chief Executive and Accounting Officer;
- (b) one representative of-
 - (i) the Federal Ministry of Transport;
 - (ii) the Federal Ministry of Employment, Labour and Productivity;
 - (iii) the Nigerian Ports Authority;
 - (iv) the Nigerian Shippers' Council;
 - (v) the National Maritime Authority;
 - (vi) Merchant Navy Officers Association of Nigeria;
 - (vii) Dock Labour Employers;
 - (viii) Seafarer Employers;
 - (ix) Terminal Operators;
- (c) two representatives of-
 - (i) Maritime Workers Union of Nigeria; and
 - (ii) the Nigerian Shipping Companies;
- (d) two *ex officio* members to be appointed by the Chairman; and

(e) the Secretary of the Council.

(2) The Chairman and members of the Board shall be appointed by the President on the recommendation of the Minister.

(3) The members of the Board, other than *ex officio* members, shall be nominated by the organisation or group which they represent, and where there is no such nomination, the Minister shall cause to be appointed from those organisations or groups such persons as it appears to him to be appropriate in each circumstance.

(4) The *ex officio* members shall be people knowledgeable and experienced in maritime labour matters.

(5) The provisions of the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters contained therein.

[First Schedule.]

4. Tenure of office

(1) The members of the Board, other than *ex officio* members, shall each hold office for a term of four years in the first instance and may be reappointed for a further term of four years and no more.

(2) The members of the Board shall be paid such allowances, as the Minister may, from time to time, determine.

(3) The members of the Board, other than *ex officio* members, may resign his appointment by notice in writing under his hand, addressed to the Minister and such resignation shall take effect only upon acknowledgment by the Minister.

5. Cessation of membership

(1) A member of the Board shall cease to hold office if-

- (a) he becomes of unsound mind;
- (b) he becomes bankrupt or makes a compromise with his creditors;
- (c) he is convicted of a felony or of any offence involving dishonesty;
- (d) he is guilty of serious misconduct in relation to his duties; or
- (e) his nomination by his organisation or association is withdrawn.

(2) A member of the Board may be removed from office by the Minister if, on the recommendation of the Council, he is satisfied that it is not in the interest of the Council or that of the public that the member should continue in office.

(3) The Minister shall declare in writing the office of a member of the Board vacant on ground of misconduct or inability to perform his functions but, the Minister shall only declare the office of the Executive Chairman vacant on consultation with the President.

6. Termination of membership

(1) Where a vacancy occurs in the membership of the Board, it shall be filled by appointment by the Minister of a successor to hold office for the remainder of the term of office of his predecessor, provided that such appointee shall be from and represented the same interest as his predecessor.

(2) Without prejudice to the foregoing, the Minister may declare in writing the removal of a member on the recommendation of the Board where such member fails to give satisfactory explanation of his inability to attend two or more consecutive Board meetings.

7. Frequency of Board meetings

(1) There shall be at least four ordinary Board meetings in one calendar year.

(2) Notice of the Board meeting shall be served on members not later than 14 days before the date fixed for the meeting.

PART II

Staff of the Council

8. Executive Chairman

(1) There shall be for the Council, an Executive Chairman to be appointed by the President.

(2) The Executive Chairman-

(a) shall hold office for a period of four years on such terms and conditions as may be specified in his letter of appointment; and

(b) may be re-appointed for a further period of four years and no more.

(3) The Executive Chairman shall be the Chief Executive of the Council and be responsible for-

(a) the execution of the policies and the day-to-day administration of the Council;

(b) the direction, supervision and control of all other employees of the Council and, subject to such restrictions as the Council may impose, for disposing of all questions relating to the service of the employees, their pay, allowances and privileges; and

(c) matters concerning the accounts and records of the Council.

(4) There shall be appointed for the Council by the President, on the recommendation of the Minister, a Secretary who--

(a) shall have such qualification and experience as are appropriate for a person required to perform the functions of that office under this Act;

(b) may hold office for a period of four years and on such terms and conditions as to emolument and condition of service as may be specified in his letter of appointment; and

(c) shall subject to the directives of the Board and the Executive Chairman, be responsible for-

(i) keeping the books and proper records of the proceedings of the Board; and

(ii) the administration of the Secretariat of the Council and the Board.

(5) The Board shall have power to-

(a) employ either directly or from any public or private service in the Federation such number of employees as may, in the opinion of the Board, be required to assist the Council in the discharge of its functions under this Act; and

(b) pay to persons or employed such remunerations including allowances as the Council may determine subject to the approval of the Salaries and Wages Commission.

9. Service in the Council to be pensionable

(1) Service in the Council shall be approved service for purposes of the Pension Act.

[L.F.N. 2004 Cap. P4.]

(2) Employees of the Council shall be entitled to pensions, gratuities and other retirement benefits as the Council may determine, from time to time.

(3) Nothing in subsection (1) and (2) of this section or in this Act shall prevent the appointment of a person to any office on terms that preclude the grant of pension and gratuity in respect of that office.

(4) For the purpose of the application of the provision of the Pensions Act, any power exercisable by the Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23, is vested in and shall be exercisable by the Board and not by any other person or authority.

PART III

Financial Provisions

10. Funds of the Council

There shall be established and maintained for the Council a fund into which shall be paid and credited-

(a) 10 percent of port dues paid by shipping companies and terminal operators to be deducted at source of behalf of the Council;

(b) all subventions and budgetary allocations from the Federal Government; and

(c) all sums accruing to the Council by way of gifts, endowments, bequest, grants or other contributions by persons and organisations.

11. Expenditure of the Council

The Council shall, from time to time, apply the fund at its disposal-

(a) to pay allowances, expenses and other benefits of members of the Board of the Council and any of its committees;

(b) to pay the salaries, allowances and other benefits of members of staff of the Council;

(c) for the establishment and payment of welfare scheme of registered casual dock workers and seafarers, as provided in section 25 (3) of this Act that no payment of any kind under this paragraph shall be made to any person who is in receipt of endowments from the Federal State or any other paid employments;

(d) to pay other overhead allowances, benefits and other administrative costs of the Council;

(e) to train its members of staff; and

(f) to undertake such other activities as are connected with all or any of the functions of Council under this Act.

12. Power to accept gifts

The Council may accept gift of land, money or other property unconditionally or upon such condition as may be convenient with respect to the functions and policies of the Council.

13. Annual estimates, account and audit

(1) The Board shall cause to be prepared and submitted to the Minister, not later than 30th September in each year, an estimate of the expenditure and income of the Council during the next succeeding year.

(2) The Board shall cause to be kept proper accounts of the Council and proper records in relation to those accounts and when certified by the Board, the account shall be audited by auditors appointed by the Board from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

14. Annual report

The Board shall not later than 30th June in each year, submit to the Minister a report on the activities and administration of the Council during the immediate preceding year and shall include in the report the audited account of the Council and the auditor's report on those accounts.

15. Exemption from tax

(1) The Council shall be exempted from the payment of income tax on any income derived by the Council under this Act or accruing to it from any of its investments.

(2) Accordingly, the provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Council.

PART IV

Registration of Dock Workers, Stevedoring Companies, Terminal and Jetty Operators

16. Registration of dock workers

(1) An application for registration as a dock worker shall be in such form as may be prescribed by the Council, from time to time, and shall be accompanied with the following-

(a) three passport photographs of the applicant;

(b) evidence of educational qualification of not less than secondary school certificate for skilled labour and such qualification and experience as appropriate for general labour.

(2) Notwithstanding the provisions of subsection (1) of this section, an applicant seeking registration as a dock worker under this Act shall satisfy the Board that-

(a) he is between 18-35 years of age; and

(b) he has not been convicted of any criminal offence in Nigeria or in any other country.

(3) An applicant who satisfies the requirements specified in subsections (1) and (2) of this section may be registered as a dock worker and issued with a registration certificate to that effect.

(4) No person, other than a registered dock worker shall be engaged in the performance of any dock work in any of the ports specified in the Second Schedule to this Act or on board any vessel.

[Second Schedule.]

(5) Any person who is not registered as a dock worker or seafarer and engages in any maritime labour in any port specified in this Act or on board any vessel commits an offence and is liable on conviction to a fine of ₦50,000.00 or to imprisonment for a term of six months or to both.

(6) Any applicant seeking registration as a dock worker under this Act who knowingly makes a false statement or produces a false document in order to procure registration is liable to imprisonment for a term of six months or a fine of ₦ 50,000.00 or to both.

(7) A dock worker or seafarer shall be disengaged from dock labour on attainment of the age of 55 years or of 35 years of service, but a dock worker or seafarer may voluntarily disengage on attaining the age of 45 years or 10 years of service.

17. Registration of dock labour employers, stevedoring company, jetty or terminal operator

(1) An application for registration as a dock labour employer, stevedoring company, jetty or terminal operator shall be made in such form as may be prescribed by the Board, from time to time, and shall be accompanied with the following-

- (a) certified true copy of the certificate of incorporation;
- (b) certified true copy of the Memorandum and Articles of Association
- (c) certified true copy of its last annual report filed with the Corporate Affairs Commission;
- (d) evidence of tax payment as and when due for a period of three years immediately preceding the year of the application; and
- (e) an undertaking by a reputable insurance company signifying that its employees shall be covered under an insurance policy issued against any form of industrial accident.

(2) An applicant seeking registration under this section shall in addition satisfy the Council that-

(a) it has a minimum paid up share capital of ₦5,000,000 and provides a bank guarantee equal to the same amount; and

(b) it has the capacity to acquire adequate equipment required for stevedoring, dock labour and shore handling operations.

(3) An applicant who satisfies the requirements specified in subsection (1) and (2) of this section may-

(a) be registered as a dock labour or stevedoring company, jetty or terminal operator on payment of registration fee of not more than ₦100,000; and

(b) be issued with a registration certificate.

(4) A registration certificate issued under this Part of this Act to a dock labour employer, stevedoring company, jetty or terminal operator may be renewed annually on payment to the Council of the sum of not more than ₦50,000.00.

(5) No body corporate shall engage any person as a dock worker in the ports specified in this Act unless he is registered as a dock worker under this Act.

18. Offence by a corporate body

(1) Where an offence under this Act which has been committed by a corporate body is proved to have been committed on the instigation or with the connivance of or attributable to any neglect on the part of a director, manager, secretary, head of a branch or project manager, or similar other officer of the body corporate or any person purporting to act in such capacity, he as well as the body corporate, where practicable, shall be deemed to be guilty of that offence and liable to be prosecuted.

(2) Where a person is convicted of an offence under subsection (1) of this section, he shall

(a) in the case of an individual, be liable to a fine not less than ₦50,000 or imprisonment for a term of six months; and

(b) in the case of the body corporate, be liable to a fine not less than ₦500,000.

PART V

Registration of Seafarers and Seafarer Employers

19. Registration of seafarers

An application for registration as a seafarer may be made by eligible candidates who shall satisfy the following requirements-

(a) he is a Nigerian citizen;

(b) he has attained the age of 18 years and not above 35 years;

(c) evidence of educational qualification of not less than secondary school certificate for ratings and qualification and experience as appropriate for officers;
and

(d) he is certified medically fit by a medical practitioner approved by the Council in line with the requirements of International Convention of Standards of Training Certificate and Watch-keeping for seafarers (STWC Convention 1995) Regulation 1/9.

20. Form of application for seafarers

All applications for registration shall be in the form prescribed by the Council from time to time and shall be accompanied by the following-

(a) four passport photographs;

- (b) evidence of educational qualification with mandatory courses;
- (c) medical certificate; and
- (d) birth certificate or declaration of age.

21. Registration of seafarer employers

(1) Application for registration as a seafarer employer shall be made in such form as may be prescribed by the Council from time to time and shall be accompanied by the following-

- (a) certified true copy of certificate of incorporation;
- (b) Memorandum and Articles of Association;
- (c) a copy of the operating license and safety certificate of the vessel;
- (d) evidence of tax payment for the preceding three years; and
- (e) evidence of protection and indemnity (P&I) cover on the vessel to be crewed.

(2) Any company seeking registration under this section shall in addition satisfy the Council that-

- (a) it has a minimum paid up share capital of at least N10,000,000.00; and
- (b) it has adequate fire prevention, fighting and life saving appliances and equipment on the vessel to be crewed.

(3) An applicant who satisfied the requirements specified in subsection (1) and (2) of this section may be-

- (a) registered as a seafarer employer on payment of a registration fee of not more than N100,000.00; and
- (b) issued with a registration certificate.

(4) The registration certificate issued under this section may be renewed annually on payment to the Council of the sum of not more than N50,000.00.

(5) A registered seafarer employer shall engage only registered seafarers in their vessels in accordance with the provisions of this Act.

22. Offences by individual or corporate bodies

A person who contravenes a provision of this Part commits an offence and on conviction shall-

- (a) in the case of an individual be liable to a fine of N100,000.00 or imprisonment for a term of six months or both;
- (b) in the case of a corporate body, be liable to a fine of not less than N1,000,000.00.

PART VI

Obligations of Registered Dock Workers, Seafarers, Stevedoring Companies, Jetty and Terminal Operators

23. Obligations of dock workers and seafarers

(1) A registered dock worker and seafarer shall-

(a) while on duty, wear his gears and carry his identity card on his person and produce it on demand for inspection by authorised personnel;

(b) while in the port premises or on board vessel conduct himself properly and not constitute himself into a public nuisance or security risk; and

(c) carry out his duties in accordance with the provisions of this Act and the conditions of employment as agreed with his employers and approved by the Council.

(2) Any dock worker or seafarer who-

(a) fails to carry out his duties in accordance with the provisions of this Act and the conditions of his employment;

(b) fails to comply with any lawful order given to him by his employer;

(c) is inefficient or negligent in the discharge of his duties; or

(d) absents himself from duty without permission or other acceptable reasons,

is liable to be suspended from duty for a period not exceeding 90 days.

(3) A dock worker or seafarer who-

(a) engages in any malpractice of fraudulent act; or

(b) conducts himself in a disorderly manner in a port area, the pool or on board vessel, commits an offence under this Act and is liable to have his registration certificate revoked by the Council.

24. Obligations of the employer

(1) A registered stevedoring company or seafarer employer, jetty and terminal operator shall-

(a) keep such records as may be required to be kept from time to time, by the Council;

(b) furnish in such form as may be specified, from time to time by the Council, such true and accurate information relating to-

(i) the number of registered dock workers or seafarers in its employment within a period of time;

(ii) the basic and overtime remuneration rates paid to its dock workers or seafarers; and

(iii) any proposed disciplinary action involving the dismissal or suspension of any dock worker or seafarer to the Council for approval;

(c) engage the services of only registered dock workers or seafarers;

(d) promptly pay wages and other entitlements of dock workers and seafarers;

(e) report any other disciplinary action against erring dock workers and seafarers under its employment;

(f) provide adequate cargo handling plants and equipment which are necessary for the discharge of any of its duties in the ports and on board vessel;

- (g) provide adequate protective gears for the safety of its dock workers and seafarers;
- (h) provide group insurance cover from a reputable insurance company approved by the Council against any form of industrial accidents;
 - (i) only engage the services of stevedoring companies registered by the Council;
- (j) in the case of seafarer employer sign the approved article of agreement with the seafarer in the presence of the Inspector of Shipping or any authorised officer; and
- (k) pay such levies and statutory contributions required to be paid by this Act or such other levies as may be imposed by the Council from time to time.

(2) A registered stevedoring company, seafarer employer, jetty or terminal operator who fails to comply with the provisions of this section or any regulation made pursuant to this Act, is liable to have its registration certificate suspended for a period not exceeding 90 days and, should the non-compliance persist, its registration may be revoked by the Board.

PART VII

Conditions of Service of Dock Workers and Seafarers

25. Training, medical services, welfare and pensions

(1) It shall be an implied condition in any contract of employment between a registered dock worker and a registered dock labour employer, stevedoring company, jetty or terminal operator or seafarer and seafarer employer that the rate of remuneration and conditions of service shall be in accordance with any local or national collective agreements for the time being in force.

(2) The conditions of service for permanent and casual dock workers and seafarers include-

- (a) training;
- (b) the provision of medical services; and
- (c) the establishment of a welfare and disengagement scheme for casual dock

workers and seafarers by the Council based on levies from-

- (i) the Nigerian Ports Authority;
- (ii) the Shipping Companies;
- (iii) the Stevedoring Companies;
- (iv) the Jetty or Terminal Operators;
- (v) registered Seafarer Employers;
- (vi) the National Maritime Authority; and
- (vii) the dock workers and seafarers (ratings).

(3) The Council shall prescribe and administer the training, medical and welfare scheme of registered casual dock workers and seafarers in the pool.

(4) The stevedoring companies, jetty or terminal operators and seafarer employers shall fund and administer the training, medical and pension scheme of registered dock workers and seafarers under the supervision of the Council.

26. Wages and remuneration

A registered stevedoring company, jetty or terminal operator and seafarer employer shall-

- (a) pay wages or other remuneration directly to a dock worker or seafarer for services rendered; and
- (b) not pay wages or remuneration through a supervisor, headman or any person in charge of a gang of dock workers or seafarers.

27. Penalty

A registered stevedoring company, jetty or terminal operator or seafarer employer who contravenes the provisions of section 26 of this Act commits an offence and is liable on conviction to a fine of N500,000.00 or six months imprisonment or both.

PART VIII

Establishment of Maritime Labour Monitoring Committee, etc.

28. Establishment of Maritime Labour Monitoring Committee

There is established in each port a Maritime Labour Monitoring Committee (in this Act referred to as "the Committee"), which shall be charged with such responsibility as the Board may determine from time to time.

29. Composition of the Committee

The Committee shall consist of-

- (a) a chairman;
- (b) a secretary;
- (c) a representative each from the organisations represented in the Board, who shall be appointed by the Council.

30. Tenure of office

Subject to the provisions of this Act, a person appointed as a member of the Committee shall hold office for a period of two years from the date of appointment.

31. Functions of the Committee

The Committee shall-

- (a) monitor the registration of dock workers and seafarers in the maritime industry in accordance with the conditions specified by the Council;
- (b) ensure that no person, other than a register dock worker or seafarer, is engaged to perform any dock work or seafaring;
- (c) prevent the entry of any dock worker or seafarer into any place to which this Act applies who is not registered in accordance with the provisions of this Act; and
- (d) carry out such other functions as may, from time to time, be referred to it by the Council.

PART IX

Establishment of a Pool of Dock Workers and Seafarers

32. Establishment of a pool of dock workers and seafarers

There is established a pool of dock workers and seafarers (in this Act referred to as "the Pool" outside the port or vessel which shall consist of the following categories-

(a) in the case of dock workers-

(i) general labour;

(ii) tally clerks;

(iii) security men;

(iv) winch men;

(v) roll-on-roll-off drivers; and

(vi) plant operators;

(b) in the case of seafarers-

(i) deck officers;

(ii) engine room officers;

(iii) catering officers; and

(iv) all ratings.

33. Choice of dock workers and seafarers

All registered stevedoring companies, seafarer employers, jetty or terminal operators, manning agents or such other similar bodies shall engage registered dock workers and seafarers in accordance with such guidelines as may be issued by the Council from time to time: Provided that nothing in this Part will limit the choice by seafarer employers to seafarers in the pool.

PART X

Establishment of a Maritime Labour Welfare Disengagement Fund

34. Establishment and management of the Fund

(1) There is established for the Council a Maritime Labour Welfare Disengagement Fund (in this Act referred to as "the Fund") into which fund shall be paid and credited-

(a) 2 percent of dock workers' and seafarers' earnings which shall be deducted at source by their employers; and

(b) contributions from all organisations represented in the Board as the Minister may determine from time to time.

(2) The Board shall set up a Maritime Labour Welfare and Disengagement Committee (in this Act referred to as "the Management Committee") to manage the Fund.

(3) The Management Committee shall, subject to the approval of the Board, apply the funds towards the following objectives-

(a) the general welfare of casual dock workers and seafarers;

- (b) payment of disengagement benefits to casual dock workers and seafarers;
- (c) the training of casual dock workers and seafarers and for the purpose to establish training centres;
- (d) cost of administration of the Fund; and
- (e) any other matter, which the Board may direct.

(4) The Committee set up in the subsection (2) of this section shall exercise such power as may be delegated to it by the Board pursuant to the directive of the Minister for the effective management of the Fund in accordance with the objectives of this Act.

35. Membership and composition of the Committee

(1) The Maritime Labour Welfare and Disengagement Committee shall be headed by the Executive Chairman of the Council.

(2) Other members shall comprise-

(a) one representative of-

- (i) the Federal Ministry of Transport;
- (ii) the Federal Ministry of Employment, Labour and Productivity;
- (iii) the Nigerian Ports Authority;
- (iv) the Nigerian Shipper' Council;
- (v) the National Maritime Authority;
- (vi) Merchant Navy Officers Association of Nigeria;
- (vii) Dock Labour Employers;
- (viii) Seafarer Employers;
- (ix) Terminal Operators; and

(b) two representatives of-

- (i) Maritime Workers Union of Nigeria; and
- (ii) the Nigeria shipping Companies;

(c) two *ex officio* members to be appointed by the Chairman; and

(d) the Secretary to the Board representing the Joint Maritime Labour Industrial Council.

36. Account of the Fund

The management Committee shall establish and maintain a separate account for the Fund from which shall be defrayed all the expenditure to be incurred by it.

PART XI

Legal Proceedings

37. Proceedings against the Council

(1) No suit shall lie against the Council for any act done unless it is filed within 12 months of the happening of the said act or within 12 months next after continuance of the said act has ceased.

(2) No suit shall be commenced against the Council before the expiration of a period of one month after written notice of intention to commence the suit shall have been served on the Council by the intending plaintiff or his agents and the notice shall clearly and explicitly state-

(a) the particulars of claim;

(b) the name and place of abode of the intending plaintiff; and

(c) the relief which he claims.

(d) the cause of action;

(3) For the purpose of this section "**suit**" means a civil proceeding commenced by writ of summons or such other manner as may be prescribed by rules of Court and includes an action but not a criminal proceeding.

(4) The notice referred to in subsection (2) and any summons, notice or other document required or authorised to be served on the Council in connection with a suit by or against the Council may be served by-

(a) delivering it to the Executive Chairman;

(b) sending it by registered post addressed to the Executive Chairman at the Head Office of the Council.

(5) In any action or suit against the Council, no execution or attachment or process in the nature thereof shall be issued against the Council, but the Council shall pay any sum of money, which may by the judgment of the Court, be awarded to the plaintiff, from the funds of the Council.

(6) Council shall not be removed under arrest when his immediate removal from duty might result into danger to life or goods, whether in execution of a warrant or otherwise, which actually engaged in the performance of his duties until-

(a) the head of the department in which he is employed; or

(b) the officer in immediate charge of the work in which the person is engaged, has been given an opportunity of proving a substitute.

(7) In any suit pending before a court, the Council may be represented at any stage of the proceeding by any employee of the Council who shall satisfy the Court that he is duly authorised in writing by the Council in that behalf.

PART XII

Miscellaneous

38. Cancellation of registration

Where the Council or Board orders the suspension or revocation of a registration certificate issued under this Act in relation to--

(a) a dock worker or seafarer; or

(b) a stevedoring company, seafarer employer, jetty or terminal operator,

it shall direct the submission of the registration certificate to the Secretary to the Board within three days.

39. Jurisdiction

The Federal High Court shall have jurisdiction to try related offences and offences created in this Act and to which no penalties have been prescribed under any section of this Act.

40. Power to make regulations

The Minister may in addition to any other powers conferred on him under this Act, make regulations generally for the purpose of this Act.

41. Repeal of Act No. 37 of 1999

The Nigerian Dock Labour Act No. 37 of 1999 is repealed.

42. Savings and transfer of liabilities, staff, etc.

(1) Accordingly, the statutory functions, rights, interests, obligations and liabilities of the Joint Dock Labour Industrial Council existing before the commencement of this Act under any contract or instrument or in law or in equity shall, by virtue of this Act, be deemed to have been assigned to and vested in the Joint Maritime Labour Industrial Council established by this Act.

(2) Any such contract or instrument mentioned in subsection (1) of this section shall be of the same force and effect against or in favour of the Joint Maritime Labour Industrial Council established by this Act and shall be enforceable as fully and effectively as if instead of the Joint Dock Labour Industrial Council existing before the commencement of this Act, the Joint Maritime Labour Industrial Council established by this Act, has been named therein or has been a party thereto.

(3) The Joint Maritime Labour Industrial Council established by this Act shall be subject to all the obligations and liabilities to which the Joint Dock Labour Industrial Council existing before the commencement of this Act was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers, and remedies against the Joint Maritime Labour Industrial Council established by this Act as they had against the Joint Dock Labour Industrial Council existing before the commencement of this Act.

(4) Any proceeding or cause of action pending or existing immediately before the commencement of this Act, by or against the Joint Dock Labour Industrial Council existing before the commencement of this Act in respect of any right, interest, liability or obligation of the Joint Dock Labour Industrial Council existing before the commencement of this Act in respect of any right, interest, liability or obligation of the Joint Dock Labour Industrial Council existing before the commencement of this Act may be continued or, as the case may be, commenced and any determination of a court shall be for or against the Joint Maritime Labour Industrial Council established by this Act to the same extent that such proceedings or cause of action or determination might have been continued, commenced or enforced by or against the Joint Dock Labour Industrial Council existing before the commencement of this Act.

(5) All assets, funds, resources and other movable or immovable property which immediately before the commencement of this Act were vested in the Joint Dock Labour Industrial Council existing before the commencement of this Act shall by virtue of this Act and without further assurance, be vested in the Joint Maritime Labour Industrial Council established by this Act.

(6) Any person who immediately before the coming into force of this Act is the holder of any office in the Joint Dock Labour Industrial Council shall on the commencement of this Act, continue in office and be deemed to have been appointed to his office by the Joint Maritime Labour Industrial Council established by this Act unless the authority by which the person was appointed terminates the appointment.

43. Interpretation

In this Act-

"Board" means the Governing Board of the Joint Maritime Labour Industrial Council established under section 3 of this Act;

"Committee" means the Maritime Labour Monitoring Committee established under section 28 of this Act;

"Council" means the Joint Maritime Labour Industrial Council established under section 1 of this Act;

"dock worker" means a person registered under this Act to perform dock work;

"Minister" means the Minister charged with responsibility of matters relating to Transport;

"pool" means a Maritime Labour and Seafarers Employment Centre;

"port dues" include ship dues, cargo dues, and any Royalty;

"register" means the register of dock workers, seafarers, stevedoring companies, seafarer employers, jetty and terminal operators to be maintained by the Council;

"seafarer" for the purposes of this Act, means a person who assists in the navigation and operation of a vessel at sea and includes officers and seamen (ratings);

"seafarer employer" means a shipping company or ship owner who employs seafarers;

"Stevedoring Company" (or Dock Labour Employer) means a body corporate (registered by the Council) who employs dock workers to perform dock work.

44. Citation

This Act may be cited as the Nigerian Maritime Labour Act, 2003.

SCHEDULES

FIRST SCHEDULE

Supplementary Provisions relating to the Board, etc.

1. Proceedings of the Board

Subject to the provisions of this Act and section 27 of the Interpretation Act (which provides for decisions of a body to be taken by a majority of members of that body and for the person presiding to have a second or casting vote), the Board may make standing orders regulating

its proceedings or those of any of its committees.

[L.F.N. 2004 Cap. 123.]

2. Quorum

The quorum at a meeting of the Board shall consist of the Chairman (or in appropriate cases the person presiding at the meeting pursuant to this paragraph of this Schedule) and five other members.

3. (1) The Chairman shall preside at any meeting of the Board, but in the absence of the Chairman, the members present shall appoint one of them to preside at the meeting.

(2) The provisions of subparagraph (1) of this paragraph shall also apply to meetings of the Committees.

(3) Where standing orders made under paragraph 1 of this Schedule provide for the Board or a committee to co-opt persons who are not members of the Board or committee, any such person may advise the Board or committee on any matter referred to him by the Board or committee but shall not be entitled to vote at a meeting of the Board or committee or count towards a quorum.

4. Committees

(1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.

(2) A committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board, and any person other than a member of the Board shall hold office on a committee in accordance with the terms of his appointment.

(3) Subject to the provisions of this Act a decision of a committee of the Board shall only have effect when confirmed by the Board.

5. The validity of any proceeding of the Board or of a committee shall not be affected by any vacancy in the membership of the Board or the committee, or by any defect in the appointment of a member of the Board or of a committee, or by reason that a person not entitled to do so took part in the proceedings of the Board or the committee.

6. (1) Any member of the Board and any person holding office in a committee of the Board who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or a committee shall disclose his interest to the Board and shall not vote on any question relating to the contract or arrangement.

(2) At any time while the office of the Chairman is vacant or the Chairman is, in the opinion of the Board temporarily or permanently unable to perform the functions of his office, a member of the Board duly appointed by the Board shall perform those functions and references in this Act to the Chairman shall be constructed accordingly.

7. Miscellaneous

The fixing of the seal of the Council shall be authenticated by the signature of the Chairman or of any other person authorised in that behalf by the Board.

8. Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Council by any person generally or specially authorised to act for that purpose by the Board.

9. Any document purporting to be a document duly executed under the seal or on behalf of the Council or a committee may be received in evidence and presumed to be so executed unless the contrary is proved.

10. The Board or a committee may act notwithstanding any vacancy in its membership or of any defect in the appointment of a member or the absence of a member.

SECOND SCHEDULE

[Section 16 (4).]

Ports to which this Act applies-

1. Lagos Port Complex, Lagos;
2. Tin Can Island Port, Lagos;
3. Roro Port, Lagos;
4. Container Terminal, Lagos;
5. Kirikiri Lighter Terminal, Lagos;

SECOND SCHEDULE-continued

6. Port Harcourt Port, Port Harcourt;
7. Federal Lighter Terminal, Lagos;
8. Federal Ocean Terminal, Onne;
9. Calabar Port, Calabar;
10. Warri Port, Warri;
11. Burutu Port, Burutu;
12. Koko Port, Koko;
13. Koko Town Port, Koko;
14. Sapele Port, Sapele;
15. Akassa Port, Akassa;
16. Bonny Port, Bonny;
17. Degema Port, Degema;
18. Forcados Port, Forcados;
19. The Private Jetties;
20. Tiko;
21. Inland Ports;
22. Inland Container Depots (ICDS);
23. Terminal/Warehouses; and
24. any other Port as may be designated by the Minister.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation

